Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	
Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers;	WT Docket No. 05-265
Automatic and Manual Roaming Obligations Pertaining to Commercial Mobile Radio Services	WT Docket No. 00-193

Comments of Centennial Communications Corp.

Centennial Communications Corp. ("Centennial") hereby submits its comments regarding roaming obligations in this matter.[1]

1. Introduction and Summary.

Wireless service is well on the way to becoming the dominant mode of communication in the United States. There are now nearly 40 million more wireless subscribers than landline lines in service.[2] Over the last eight years, the average monthly usage of wireless service has more than quadrupled, while the average price per minute of use has declined by more than 75%.[3] Over the same period, the number of cell sites has increased by a factor of nearly six, with industry investment over that period exceeding $140 billion.[4]

Roaming is simultaneously an important part of this success story and a progressively less important one. Roaming is critically important as a customer service matter, because millions of wireless subscribers have the benefit of nearly ubiquitous nationwide wireless

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[1] Memorandum Opinion & Order And Notice of Proposed Rulemaking, WT Docket Nos. 05-265, 00-193 (released August 31, 2005) ("*Roaming Notice*").

[2] FCC, *Statistics of Common Carriers,* 2004/2005 Edition, at Tables 2.3 (incumbent carrier landline switched access lines) & 5.6 (wireless subscribers).

[3] *See* In the Matter of Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993 Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services, *Tenth Report,* WT Docket No. 05-71 (Terminated) (released September 30, 2005) ("*10th Wireless Report*"), at Appendix A, Table 8.

[4] *10th Wireless Report* at Appendix A, Table 1.

service, whether on their "home" networks or on the road. This easy availability of ubiquitous service makes wireless more valuable. Customers simply expect their wireless phones to work wherever they are.[5] At the same time, roaming is becoming less important to the industry in a financial sense as roaming rates have plummeted. In 1996, roaming revenues accounted for nearly 12% of the industry's total; in 2004, that figure was only about 4%.[6] Total roaming revenues have grown over that period, but only as a result of the explosive growth in total subscribers and average monthly usage – 19.4% and 21.3% annual growth rates, respectively.[7] Roaming is becoming a required feature of service, not a potential profit center.

In the context of this explosively growing industry, the current manual roaming requirement should be updated to an automatic roaming requirement. It is difficult to see any significant downside – whether financial or operational – to carriers who would be affected by such a requirement (*i.e.,* carriers who might not otherwise establish automatic roaming arrangements). The consumer benefits, however, are plain: the elimination of the inconvenience of manual roaming, which can be significant. Today, there is no reason that any subscriber of any system should be unable to automatically roam onto any technically compatible system, as long as the subscriber's home system has offered reasonable roaming terms, including reciprocal roaming and a willingness to maintain technical compatibility.

That said, there is no need for heavy-handed regulation in this area. The Commission should simply declare that reasonable automatic roaming is required – perhaps providing some general guidelines for what might constitute reasonable terms – and allow industry parties to work out the details. The Commission would remain available to adjudicate any disputes that the carriers themselves cannot resolve.

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5 As one indication of this, today all of the nationwide operators "offer some version of a national rate pricing plan in which customers can purchase a bucket of minutes to use on a nationwide or nearly nationwide network without incurring roaming or long-distance charges." *10th Wireless Report* at ¶ 97.

6 *Id.*

7 *Id.* at Appendix A, Table 1 (subscriber figures); *id.* Table 8 (minutes of use per month).

2. Wireless Is A Success Story.

If wireless service is not already the dominant mode of communication in the United States, it is well on the way to achieving that state. The most recent *Statistics of Common Carriers* indicates that as of year-end 2004, incumbent telephone companies served approximately 143 million switched access lines, as compared to approximately 182 million wireless subscribers (each of which represents a wireless "line").[8] The trend of the last several years is dramatic: as of year-end 1996, incumbent landline carriers served approximately 159 million switched access lines, while the number of wireless subscribers was less than one-third of landline, only about 44 million.[9] So over the last eight years, landline lines have been declining at a rate of about 1.3% per year, while wireless subscribers have been growing at a rate of about 19.4% per year.

This growth in subscribership has been accompanied by dramatic increases in average usage and decreases in price. While non-price factors make direct comparisons difficult,[10] average revenue per minute (a reasonable measure of price) has declined from $0.38 in 1996 to $0.09 in 2004 (an annual decline of 16.5%), while average monthly usage has jumped from 125 minutes to 584 minutes (an annual increase of 21.3%).[11]

The subscriber growth figures above actually ***understate*** the dynamism of this market. After slowing down in the late 1990s, over the last three years, subscriber growth has been again accelerating, with each year's increase in new subscribers dwarfing the prior year's increase. *See 10th Wireless Report* at ¶ 161. Discussing this phenomenal growth, the Commission observed that:

> According to a number of analysts, the main drivers of this high subscriber growth are the attractiveness of innovative service models such as prepaid and family plans – which target previously underserved markets such as youth, immigrants, and the credit-challenged – as well as wireless substitution.

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8 FCC, *Statistics of Common Carriers,* 2004/2005 Edition, at Tables 2.3 & 5.6.

9 *See id.*, Table 5.6 (1996 figure for wireless); FCC, *Statistics of Common Carriers,* 1996/1997 Edition, at Table 2.3 (1996 figure for landline).

10 *See 10th Wireless Report* at ¶¶ 154-58.

11 Figures from *10th Wireless Report* at Table 8.

This brief observation deserves careful study. A "main driver" of growth is the addition of users who were not part of the wireless network at all, until they were reached by imaginative new uses of pre-existing technologies, such as prepaid service and family plans. The continuing success of wireless is being driven by finding ways to expand the network and the ease of using it, rather than in trying to stand still – which is what a continued manual roaming obligation would be.

The explosive growth in subscribers and usage has required the industry to make massive investment in wireless infrastructure. The most recent report on wireless competition indicates that from year-end 1996 through year-end 2004, the number of cell sites in service increased from 30,045 to 175,725 (an annual growth rate of 24.7%), while cumulative investment in wireless infrastructure increase from approximately $33 billion to approximately $174 billion (an average annual investment of $18.6 billion).[12]

Wireless networks have thus entered a virtuous circle: growth has driven down subscriber costs, and those lower costs have increased demand and brought on yet more growth. Wireless is plainly a success story for the Commission's market-oriented, pro-consumer policies, and equally plainly a success story for consumers themselves. Ubiquitous, "always on" wireless service allows travelers and commuters to stay in touch with their homes and offices. Parents in two-earner families can keep track of their children from a distance, and can manage schedules to knit families together in spite of seemingly unending demands on time. And seamless wireless networks increasingly support public safety: an emergency phone call from a disabled car; or a child sent off to school or on an errand with instructions to keep the phone on and to use 911 immediately if any threat should appear.

Roaming – including automatic roaming – has been an important part of this process. Roaming ensures constant availability, wherever the user might be. Roaming means that travelers – businesspeople at work, or families on the road – can count on seamless and

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[12] *See 10th Wireless Report*, at Appendix A, Table 1.

uninterrupted access to the networks. The success of roaming rests, in turn, on allowing consumers access to wireless networks on reasonable terms. If market failure distorts roaming availability or pricing, the network fabric of affordability and ubiquitous access will be stretched and, perhaps, torn. In the early days, when wireless service was mainly a luxury item or a business necessity, the inconvenience and cost of a lack of roaming capability, or inefficient manual roaming, had little impact on most consumers. Nowadays, with wireless service the norm, it is critical that roaming remain seamless, affordable, and efficient.

When considering the costs and benefits of establishing a roaming rule, it bears emphasis that the effects of manual roaming (as opposed to automatic roaming) fall on individual Americans. Individual convenience and quality of life are critical parts of the equation because wireless is a much more ***personal*** service than is landline telephone service. A wireless telephone is associated not with a household or a business, but, rather, with a particular, specific individual. This is evident, albeit indirectly, in the Commission's own statistics. While the Commission measures landline penetration in terms of the proportion of ***households*** with a telephone,[13] the Commission measures wireless penetration in terms of the proportion of ***individual people*** that subscribe to a wireless service.[14]

As far as Centennial is aware, there is no industry-wide problem with roaming arrangements today. In practice, automatic roaming is the norm, and roaming failures and/or manual roaming the exception. At the same time, the economic significance of roaming to the industry as a whole is declining: roaming represented 11.8% of industry revenues in 1996, but only 4.1% of revenues eight years later in 2004. *See 10th Wireless Report,* Appendix A, Table 1. For this reason, there is no basis for any claim that requiring automatic roaming will be disruptive. To the contrary, such a requirement will simply ensure that the benefits of automatic roaming are uniformly available. At this late date, Centennial submits that there is no reason to continue to require only manual roaming, which has become as anachronistic as requiring rotary

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13 FCC, *Statistics of Common Carriers,* 2004/2005 Edition, Table 5.9 (reporting "Percent of Households with Telephone Service").

14 *10th Wireless Report,* Appendix A, Table 3 (calculating "EA Penetration" by dividing wireless subscribers in an "economic area" by the population of that economic area). Implicitly, while the goal for landline penetration is for every household to have a phone, the goal for wireless penetration is for every ***individual*** (at least every individual above a certain age) to have a phone.

dial telephones for landline carriers. Instead, while the Commission should avoid any sort of heavy-handed regulation, it should nonetheless require CMRS carriers to offer each other automatic roaming on reasonable terms, as suggested below.

3. There Are Sound Legal And Policy Reasons To Require Automatic Roaming.

From a policy perspective the case for automatic roaming is clear. Manual roaming is cumbersome: at a minimum, the first time that the traveling subscriber wants to make a call, the result of pushing the "send" button is not the completed call that the subscriber expects, but instead the need to have a conversation, and perhaps even to fumble with credit cards while driving, in order to establish a payment arrangement with the roamed-on carrier.[15] This is expensive, inconvenient, and – depending on the circumstances – potentially dangerous. If the subscriber's home carrier is willing to pay a reasonable fee for the roaming usage, however, there is no conceivable reason to subject consumers to that inconvenience and expense. It is an invitation for systems that perceive themselves to have market power for some reason to exploit that market power to the disadvantage of consumers. Indeed, if the home system is willing to pay a reasonable fee for roaming, it is reasonable to ask why, other than an effort to exploit market power, a system would turn down an automatic roaming arrangement.

From a network perspective, it bears emphasis that each new subscriber that obtains service as prices fall and access spreads is, actually, ***part of*** the network. The presence of new users then attracts even more users, and even more usage. As more and more people have wireless phones, the increased usage helps reduce costs. Because users are, in fact, part of the network, anything that frustrates network access and usage – such as manual roaming – should be viewed as harmful to the network itself. When consumers cannot easily and efficiently make the calls they want to make, there are plain costs – the opportunity costs associated with unmade calls, schedule mishaps, and lost or delayed business transactions. The skein of family and business life – which wireless communications help to knit – starts to unravel.

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15 *See Roaming Notice* at ¶3 n.7 (describing cumbersome manual roaming procedures).

Legally, the Commission long ago determined that roaming is a common carrier obligation of CMRS providers. *See Roaming Notice* at ¶ 2. Section 201(a) of the Act requires carriers to provide service "upon reasonable request therefor," and Section 201(b) requires carriers' terms and conditions of service to be "just" and "reasonable." When a subscriber wanting to make a wireless call pushes the "send" button, in direct, physical terms that represents a "reasonable request" for service from the roamed-on system. From another perspective, when one CMRS carrier approaches another seeking a reasonable automatic roaming agreement, that represents a "reasonable request" for service on behalf of the requesting carrier's subscribers as a group. There is no reason, in today's wireless market, to permit a carrier to decline to provide such service.[16]

As more fully explained below, Centennial suggests that the details of automatic roaming agreements should be left to carrier-to-carrier negotiations, with Commission involvement required only at the end of the day, to resolve disputes where carriers have reached an impasse. As a result, if in some peculiar situation a carrier ***does*** have a valid reason to deny automatic

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16 As the Commission noted in Automatic and Manual Roaming Obligations Pertaining to Commercial Mobile Radio Services, WT Docket No. 00-193, *Notice of Proposed Rulemaking,* 15 FCC Rcd 21628 (2000) ("*2000 Roaming NPRM*") at ¶ 15 (footnotes omitted):

> We continue to adhere to the general principles on roaming that we enunciated in the *Second Report and Order.* We affirm our conclusion in that order that ubiquitous roaming on CMRS systems is important to the development of a seamless, nationwide "network of networks." We further affirm our determination that roaming is a common carrier service because roaming capability gives end users access to a foreign network in order to communicate messages of their own choosing, and thus that the provision of roaming is subject to the requirements of Sections 201(b), 202(a), and 332(c)(1)(B) of the Communications Act. In addition, we have the authority to impose a roaming requirement in the public interest pursuant to our license conditioning authority under Sections 303(r) and 309 of the Act.

Centennial submits that today, with more than 180 million wireless subscribers on numerous systems throughout the country, it is crucial that anyone anywhere should be able to make a call, and that "anywhere" should mean any place or time when the need or desire to make a call arises. In this regard, from another perspective, roaming arrangements may be viewed as, in effect, a form of network interconnection. This is in part because wireless handsets are, in non-trivial respects, part of the network itself, in regular communication with cell sites, rather than passive terminal devices like landline phones. In addition, in a roaming arrangement the "networks" themselves interconnect via the exchange of appropriate customer identification data. As a result, the Commission may rely on Sections 201(a) and 251(a), both of which permit or require interconnection of networks, to support a general automatic roaming requirement.

roaming to another carrier, the Commission can deal with that situation case-by-case.[17] In this regard, the Commission suggested that it might rely on Section 202 of the Act, which bars unreasonable discrimination, as a legal basis for requiring automatic roaming. *See Roaming Notice* at ¶¶ 33-34. Centennial agrees that in some cases a carrier's refusal to enter into an automatic roaming agreement with one requesting carrier might be discriminatory in light of agreements the carrier has with other requesting carriers. However, Section 202 forbids only "unreasonable" discrimination, and the factors that might "reasonably" distinguish one requesting carrier from another are potentially both numerous and difficult to quantify (*e.g.*, the systems' respective number of subscribers, technology used, area of coverage, quality of coverage within area, frequency with which the requesting carrier's subscribers might roam into the other carrier's service area, and *vice versa*). For these reasons, Centennial suggests that the Commission rely on Sections 201(a) and (b) as the basis for establishing a stand-alone requirement to enter into reasonable automatic roaming agreements. Any alleged violations of Section 202 can be dealt with only as the need arises.

The Commission noted that, at one point, its rationale for requiring roaming was based, at least in part, on the idea of protecting newly-licensed carriers from losing out in competition for subscribers to earlier-licensed systems with more ubiquitous build-outs. The idea was that the new system could be assured that it could offer its customers roaming service while its own network was being built out. *See Roaming Notice* at ¶ 5. On this rationale, once all licensed carriers have had a reasonable time to build out their own systems, the need to protect relatively new systems by requiring roaming is no longer strong, so it might be sensible to dispense with a roaming requirement.

Centennial submits that this rationale is not the best or most reasonable one on which to rely today, in a market in which the Commission has licensed both nationwide and smaller, regional providers, all or most of whom have had a substantial time to build out their networks. No matter how much time a small or regional provider has had to build out, it will ***never*** have a

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[17] Legally, this would amount to a determination that, in the particular case at hand, the request for service is not "reasonable" for some reason.

network that has the same nationwide scope as a national carrier. It is simply not licensed to build such a network.

In this same vein, it is the multiplicity and diversity of CMRS carriers that have driven the wireless industry's improvements in pricing and service offerings. In recent years, the wireless industry has become more concentrated as consolidation among its operators has become more widespread. In this new environment, consumers could find their choices of carriers further limited—and the development of better services at more attractive prices repressed—if the large national carriers were permitted to deny small regional carriers reasonable roaming arrangements. As the industry finds itself in the midst of a trend of consolidation, now would not be a good time for the Commission to enable anticompetitive incentives.

Moreover, the Commission continues to license spectrum in less than nationwide blocks. While some portion of these smaller spectrum blocks will undoubtedly be purchased by national carriers in an effort to fill in gaps in coverage or deal with growing demand, at least some of this spectrum will likely go to smaller carriers – perhaps even completely new entrants – without a national footprint. Furthermore, to the extent any firm other than one with a nationwide footprint considers participation in future spectrum auctions, the lack of an automatic roaming requirement would adversely affect its calculation of the auctioned spectrum's worth because of a perceived inability to offer its customers access to the nationwide "network of networks." Given this, in considering roaming requirements, the Commission should consider the market implications of the simultaneous, long-term presence of both national and regional networks.

In this regard, the market dynamics and regulatory policy considerations regarding the roaming needs of smaller networks – and their subscribers – are very different from those affecting two networks with comparable geographic operating authority but starting their build-outs at different times. Smaller networks have the obvious disadvantage of a limited market footprint. Indeed, as the wireless market has evolved, it is clear that from the customer's perspective, the larger the coverage area, the more valuable the service is perceived to be.[18] Consumers have come to expect that wireless service will offer a "seamless, nationwide 'network of networks'" to which they will have automatic access.[19] This market development is obviously beneficial to (and, via advertising, has in part been generated by) the national networks.

This is not to say that smaller, regional networks have nothing to offer. To the contrary, in Centennial's experience a smaller footprint can be turned into an advantage by focusing on providing superior network quality and locally-focused customer service – the latter of which is inevitably a challenge for larger networks with a nationwide focus. This local focus gives the smaller carrier something meaningful to offer the larger carrier – good network coverage in areas where the large carrier might not find it economic to build out its own network – or at least not as fully – in light of the other substantial demands for capital facing the larger network. In return, a reasonable automatic roaming agreement with a nationwide carrier allows the smaller carrier to offer its own subscribers nationwide calling privileges, so that when the smaller carrier's customers travel – whether on business or for personal reasons – they can continue to use their wireless service in a seamless and efficient manner.[20] In this regard, the Commission has noted the importance of reasonable roaming rates to the ability of a smaller carrier to offer attractive nationwide calling plans.[21]

As noted above, the Commission should base an automatic roaming obligation on Sections 201(a) and (b), which require that service be provided "upon reasonable request

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[18] This may not always have been the case. In the very early days of cellular service, the key target market was comprised of businesspeople, such as real estate agents, who needed to be able to make and receive calls while "on the go" within a local area. Nowadays, of course, wireless is primarily a consumer-oriented phenomenon, and everyone expects that their wireless phones will work whether they are on the way home from work or on a vacation across the country.

[19] *2000 Roaming NPRM, supra* at ¶ 15.

[20] Although reasonable automatic roaming arrangements do not involve meaningful subsidies in either direction – each carrier pays for the services its own subscribers use on the other carrier's system – in this respect mandatory automatic roaming is fully consistent with the universal service objectives of Section 254 of the Act, in that it will tend to ensure that rural subscribers – more likely than urban subscribers to take service from a non-national system – have access to the same service options – including nationwide wireless service availability – as urban and suburban subscribers.

[21] *See 10th Wireless Report* at ¶ 25 & n.44 *See also id.* at ¶ 57 & n.106.

therefor" and on "reasonable" terms. Under these provisions of the statute, the terms upon which a requesting carrier seeks automatic roaming on behalf of its subscribers must, indeed, be reasonable. This will automatically protect smaller carriers from potential efforts by national carriers to take advantage of their government-established superior bargaining position.[22] At the same time, this will also protect larger carriers from being subject to unreasonable terms by smaller carriers who might, at least temporarily, be able to exert undue bargaining power given the larger carriers' desire to offer complete, nationwide coverage.

Centennial is not seeking a ruling that will constitute undue, heavy-handed "regulation" of the wireless market. There are, however, two concerns that must be kept in mind when considering the overall state of the market. First is that the wireless market is reasonably competitive and not in need of major regulatory intervention. That said, however, the wireless market in its current competitive form – including the existence of both nationwide and small and regional carriers – exists not as the happy result of some economic state of nature, but, rather, as the product of conscious pro-competitive, pro-consumer policy choices by Congress and the Commission itself. If the wireless market is competitive today, it is because the Commission and Congress acted, rather than standing by.

The second concern is that some smaller systems – and some consumers – may find the full set of choices brought by competition to be out of reach due to the absence of automatic roaming. Those systems, and those consumers, will be further marginalized unless the Commission intervenes. Centennial asks the Commission to make another policy choice – a modest one – to ensure that as the wireless market evolves through supplier consolidation, technological change, and ever-expanding growth in subscribers and usage, all consumers will be assured continued access to "a seamless, nationwide 'network of [wireless] networks.'"[23] An automatic roaming requirement would ensure that smaller carriers can continue to offer convenient nationwide service plans to their subscribers, while protecting large and small

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22 That is, smaller carriers are barred by the terms of their licenses from simply expanding their service beyond their licensed territories, and so have no choice but to deal with national carriers to obtain national roaming arrangements.

23 Automatic and Manual Roaming Obligations Pertaining to Commercial Mobile Radio Services, WT Docket No. 00-193, *Notice of Proposed Rulemaking,* 15 FCC Rcd 21628 (2000) at ¶ 15 (footnote omitted).

carriers alike from any intermittent ability either might have to exploit an advantage in bargaining power. Such an advantage would arise not from pure marketplace considerations, but rather, directly or indirectly, as an unwitting legacy of the underlying regulatory regime under which the industry has operated in the past.

4. The Commission Should Leave The Details Of Roaming Agreements To Carrier-To-Carrier Negotiations.

Centennial does not believe that roaming disputes are so widespread that the Commission should mandate specific terms that must be included in automatic roaming agreements. To the contrary, things are generally working well. For example, in the past there may have been situations in which carriers in remote but traveled areas, perhaps along interstate highways, were using their status as (effectively) local monopolists to extract unreasonably high rates from roamers (or their home systems).[24] With average per-minute roaming revenues declining to $0.16 per minute,[25] however, that problem is clearly no longer significant.[26] To the contrary, regional wireless carriers can and do add value to national systems by allowing the national systems to focus their capital investment on areas of greatest demand, but would not normally be in any position to demand unreasonably high payments from systems seeking to establish roaming arrangements for their customers. This proceeding presents an opportunity for the Commission to "lock in" the benefits enjoyed by most wireless users today, while simultaneously guaranteeing that future wireless users will continue to enjoy these benefits.

While the Commission need not dictate specific terms, it would be reasonable for the Commission to indicate some general guidelines for what it would expect to see in a roaming agreement.

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24 *See, e.g., 10th Wireless Report* at ¶ 128 n.308 (in 1990s roaming rates paid by national to regional carriers apparently averaged $1.00 per minute).

25 *Id.*

26 Surveys indicate increasing overall consumer satisfaction with the cost of wireless service, with much of the improvement due to a strong increase in "fairness in roaming charges." *See 10th Wireless Report* at ¶ 179 (footnote omitted, quoting J.D. Power & Associates). Bundling the ability to roam with basic service charges is an important contributor to consumer perceptions that roaming charges are fair – they simply see them as a separate line item less often. Lower roaming charges simultaneously make it economically reasonable to include roaming within a single flat-rate price, and make the "sticker shock" less painful when roaming charges are itemized.

In sum, Centennial asks that the Commission (a) declare that automatic roaming on reasonable terms is required; (b) issue general guidelines that it would expect to see in reasonable, reciprocal automatic roaming agreements; and (c) make clear that the Enforcement Bureau is available to adjudicate disputes between CMRS providers who cannot come to mutually acceptable automatic roaming agreements. Such a course would strike the correct balance between providing the assurances needed to smaller carriers that automatic roaming will be available to their subscribers on reasonable terms, on the one hand, and allowing market forces to determine industry arrangements to the maximum extent possible, on the other.

Centennial suggests the following guidelines for automatic roaming agreements. First, the roaming arrangement should be reciprocal, *i.e.,* either carrier's subscribers should be allowed to roam on the other carrier's system. Second, roaming should (obviously) not be required if the systems are not technically compatible, but should be if they are. Third, the charge for roaming should be reasonable. This reflects the perspective that roaming should be a convenience and benefit for end users, not a source of unreasonable profits for any carrier.

5. Conclusion.

For the reasons discussed above, Centennial requests that the Commission establish an automatic roaming requirement, but permit the industry to work out the details – subject to the availability of the Commission to resolve disputes – in intercarrier negotiations.

Respectfully submitted,

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